BAR BULLETIN

THE AUSTRALIAN CAPITAL TERRITORY BAR ASSOCIATION

ACT Bar Association

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Message from the President

A recent trip to Japan impressed upon me the respect and discipline necessary for people to function in a heavily populated city. The residents of Tokyo are respectful of others, peoples personal space and of the need to obey some fundamental rules.

People wishing to smoke in a public street must do so in clearly marked or designated areas on the footpath. In restaurants, and at the airport, there are glass enclosures for smokers so that they do not interfere with, or pollute, other members of the public.

Riding on the subway at peak hour on a Friday night, I was amazed to observe travellers approach an apparently full carriage, turn their backs and push gently backwards into an already crowded carriage. Somehow those already aboard the carriage managed to squeeze closer together to accommodate the additional passengers.

Some of the older Japanese bow on entering a room, boarding a bus or riding the subway. As one might expect, however, this courtesy appears to have been lost on the younger generation.

Japanese men do not fight physically. They stand and yell at each other, but that is as far as it goes. Indeed, I was told that recently two male tourists engaged in fisticuffs in a Tokyo Street and the astounded Japanese did not know what to do, so they watched in amazement without intervening.

On return to Australia, I was ashamed when entering the Customs area where approximately 1000 people, including Japanese, no doubt visiting Australia for the first time, were attempting to form queues without any Customs officer or person in authority assisting. The result was chaos, people accusing others of queue jumping, pushing and shoving with voices raised in angry shouts. How different from Japanese respectful society and behaviour and what a dreadful comment on the cut back in funding for Customs which means that no person or official can be spared to regulate the chaotic queueing.

Pilot Criminal Listing

The concerns of the Criminal Bar were conveyed to Chief Justice Murrell at our monthly meeting with the Judges. Efficiency is the holy grail, and increased costs, litigants concerns and wishes and counsel's availability must all give way to reduce the outstanding criminal list. Whilst I will continue to press the profession's concerns for the remainder of my term, there can be no optimism that change is likely.

Sexual Abuse Hearings

Whilst these hearings have been taking place around the countryside, the current Canberra sittings have focused attention on schools in our area. The courage of those speaking out after years of suppression is remarkable and is to be contrasted with the despicable breaches of trust and cowardice of the perpetrators and those who covered up for them. And isn't it remarkable that contrition only comes now when they have been caught out and exposed - instead of years ago.

Our contempt for them and outrage will never be enough for the victims, but lets hope that expressing it helps in some small way.

NEW Scholarship for Women Practising at the ACT Bar

It gives me great pleasure to advise members that the Bar Council has approved a Scholarship for women practising at the ACT Bar. We have been very fortunate and grateful to obtain a generous sponsorship of $3,000 from Michael Miller of MLC Advice Canberra with the assistance of our CEO, Svetlana Todoroski.

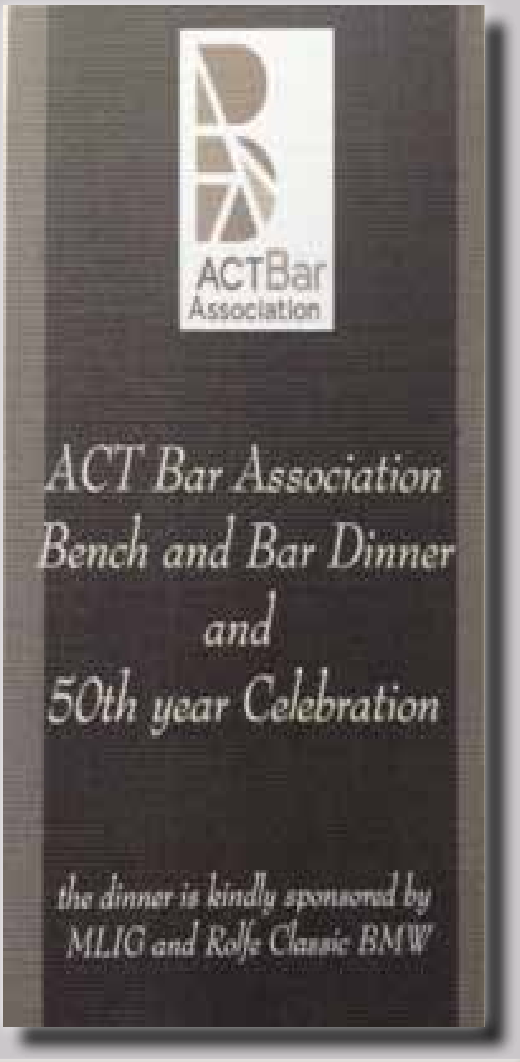
The scholarship will be awarded to women who have passed the Bar Exams and completed their Bar Practice Course and are eligible to practise at the private Bar in the Australian Capital Territory.

The primary goal of the scholarship is to strengthen the representation of, and to facilitate the retention of, female barristers at the ACT Bar.

It is proposed that the scholarship cheque or cheques be presented by the sponsor at an Annual Women Lawyers lunch hosted by the Bar.

ACT Bar Association
Bench and Bar Dinner
and
50th year Celebration

22 August 2014



SPEAKERS:

The Hon Justice Lucy McCallum of the Supreme Court of NSW
and
Mr Junior for 2014 will be Mr Michael Orlov

partners are also invited

the dinner is kindly sponsored by
MLIG and Rolfe Classic, BMW

This is only a starting point. The Bar Council intends to implement initiatives that deal with attrition and re-engagement of women at the ACT Bar.

One of the initiatives will be to seek an undertaking form each Senior Counsel at the ACT Bar ***'Silks Undertaking'*** to commit to engage at least one 'new' female barrister working in the silk's area of practice, each year on a junior brief. Silks are encouraged to consider how they can assist the briefing of women.

A notice to all practising senior counsel will be sent via email where signatories to the undertaking will be sought.

In November 2013, The Victorian Bar Association launched a very impressive program for women called "The Quantum Leap" which includes a seven -point plan of targeted actions to reach its gender targets. The program seeks to bring the number of female silks in Victoria from nine percent to 30 percent over the next 10 years. In the same time period it is also seeking to lift the number of female barristers in their first two years at the Bar from the current level of 44 percent to 50 percent.

At present there are only eight female barristers which make up 12% are at the ACT Bar - the categories being:

1 Senior Counsel

4 Senior Junior Counsel (13+ years);

1 Junior Counsel (3yr - 5yr); and

2 Junior Counsel (1yr - 2yr).

It is not unreasonable to expect that more women will join practise at the ACT Bar over the next five years, particularly with a strategy that includes proper mentoring from senior barristers and encouraging women to be briefed in cases they are involved in.

With these strategies in place, we will aim to ensure that we attract and retain the best talent and improve the competitive advantage and integrity of the Bar in the Australian Capital Territory.

Greg Stretton SC

Master of the House

When the ACT first appointed Terry Connolly as Master, he performed a much more restricted role and discharged duties that were theoretically "inferior" to that of a judge of the Supreme Court and those that were recognised as "Masters Duties".

That is realistically no longer the case. Master Mossop has, arguably, a heavier court workload than any judge, i.e. the "Applications List" plus other hearings. If there is, in reality, a purpose in having a "Master" as opposed to a "Judge" then it is time that the remuneration package of the Master was exactly the same as a Judge.

For my part, I see NO need at all for the position of Master and would like to see the Master be re-appointed as a Judge and the Applications List be rostered.

Death of Two Miners at Cessnock – Personal Comment

I had the privilege of acting for the Miners Federation for 10 years in the Wollongong district. We had civil juries of four people trying the cases.

The roles of the GP and physiotherapist were forensically more important in a civil jury trial than what we experience in Canberra and the role of cross examination and "investigative" film also played a forensically different role in front of a jury. But the biggest difference you were aware of as counsel was that your clients really were in danger of not coming home and/or being catastrophically injured, as opposed to your client who was working in the Public Service.

When you went underground with your expert and cameraman (with a special mine camera) and experienced heavy machinery going past with 2 metres to spare (sometimes less), with your nostrils being filled with coal dust and the eerie blackness of the pitt, you became further aware of a very different client base.

FJ Purnell

Editor

The Hon Chief Justice Helen Murrell

The Supreme Court is committed to the efficient listing of criminal matters. This minimises costs for the community, lessens the burden on witnesses and their families, and assists accused persons and victims of crime. In the civil arena, alternative dispute resolution has many benefits to the parties, as well as to the Court.

In the last few months the Court has undertaken two important initiatives: one in the area of civil litigation, the Mediation block; and one concerning criminal matters, the Central Criminal Listing Pilot.

I am pleased to inform the profession of the results of the Mediation block and the Central Criminal Listing Pilot.

Mediation

The Mediation block ran from 17 March 2014 to 11 April 2014. A total of 95 matters were listed. Most matters listed (about 75%) were personal injury matters. The remaining matters varied, and included actions for defamation, breach of contract, debt and family provisions.

Of the 95 matters listed, as of 20 May 2014, 73 matters (76.8%) had settled. Fifty-three matters (72.6%) settled on or before mediation, and 20 matters (27.3%) settled post mediation. This is approximately the settlement rate achieved where minor civil matters are listed in a central running list. However, early settlement through mediation achieved a saving for the Court (no judge sitting time was allocated needlessly) and a saving for the parties (legal representatives were briefed for a half-day mediation, not a potentially lengthy hearing).

A critical factor that assisted the parties to reach a resolution was the provision of Acting Judges in July – August 2014, enabling the Court to offer early hearing dates for unresolved matters.

The Court consulted with mediators and the legal profession and useful suggestions were made for improvement. Overall, the Court received very positive feedback from the legal profession. Given the success of the Mediation block, the Court is planning a further Mediation block in the near future.

Central Criminal Listing Pilot

The Central Criminal Listing Pilot was fixed for seven weeks from 24 February 2014 to 11 April 2014. A total of 67 matters were allocated trial dates. Sixteen accused elected to be tried by judge alone. Twenty-seven matters actually proceeded to trial, 25 matters changed their plea to guilty (between the allocation of a trial date and commencement of the trial), 13 matters were vacated (5 matters were not reached and 8 matters were vacated for reasons such as death of the accused), the ACT DPP declined to proceed for one matter, and one matter is ongoing.

Of the 27 matters that proceeded to trial, 4 matters resulted in hung juries and 23 matters were resolved by verdict (11 guilty and 12 not guilty). Fifteen matters (65.2%) took less than 12 months from committal to verdict. The average period from committal to verdict was 13.3 months.

The available judge days was 134. The actual number of judge days used in the Pilot was 133, an efficiency of 100%. On occasion, judges had two trials before them running concurrently; while one jury was considering its verdict another trial commenced. By listing a number of trials concurrently, time was used more effectively.

At a consultation meeting with the legal profession regarding the Pilot, a number of useful suggestions were made for improvement. In future, the Court will centrally list criminal matters, but will make modifications to address issues that were raised. Criminal listing blocks will run for shorter periods (generally 3–5 weeks) and, generally only three judges will sit in criminal trials at any one time. The Court will liaise with the Magistrates Court in order to minimise conflict with the Magistrates Court listings.

More abstinence required

It may well be common knowledge these days that what is relevant for the commission of an alcohol or drug-related driving offence is the person's blood alcohol level, or the presence of drugs, when tested, and also that such testing may take place within two hours after the person stops driving... It may not be such common knowledge that what is relevant for the commission of such a driving offence after an accident may be the person's blood alcohol level, or the presence of drugs, up to eight hours later, if the person attends hospital as a result of the accident in the six hours after the accident… That is, a person who is a "driver involved in an accident" and who would not, if tested immediately after the accident, have produced a positive result for alcohol or drugs should avoid consumption of alcohol and illicit drugs for six hours after the accident; otherwise, the person risks liability for an offence even though he or she had not engaged in the particular conduct (driving while affected by alcohol or illicit drugs) intended to be deterred by the relevant legislation: *Cooper v Hill [2014] ACTSC 94 [56]-[58] Penfold J(Burns J agreeing)*

> ***"the commission of such a driving offence after an accident may be the person's blood alcohol level, or the presence of drugs, up to eight hours later..."***

In fact the time could be longer because the period for taking the sample is within two hours of attendance at the hospital where the doctor or nurse believed on reasonable grounds that the accident happened not longer than six hours before attendance at the hospital.

If the accident happened eight hours before but the doctor or nurse believed reasonably it was less than six hours it is still an offence. The decision did not follow Rollings v Barter [2003] ACTSC 57; (2003) 192 FLR 357 as s15A of the Act had been amended since it was decided.

It leaves undiscussed how the defence of honest and reasonable mistake, which is now open would operate as the offence is providing the sample of breath or blood not the driving. [See Bar Bulletin May 2013].

Mandatory final offers in a motor accident case

An unfairness that appears not to have been foreseen by the legislature in the Road Transport (Third Party Insurance) Act 2008 arises in a situation where the defendant makes an offer the total of which is inadequate and more is awarded by the Court but the damages that do not include non-economic loss are less than $50000.

Non-economic loss is defined in s156B as follows

"non-economic loss" includes the following:

(a) pain and suffering;

(b) loss of amenities of life;

(c) loss of expectation of life;

(d) disfigurement.

It is an inclusive definition but does not expressly include damages for unpaid assistance or interest on what are known at common law as general damages.

In s155 the key number is the amount in the mandatory final offer less the amount awarded by the court for "non-economic loss". If that number in the mandatory offer is more than the amount awarded by the Court for it then there are significant costs penalties. A cynical defendant may deliberately minimise the figure for non-economic loss thus maximising the figure for the other damages and get a costs advantage even though the Court award is much more than the total of the mandatory offer because the award for non -economic loss is much more than was allowed in the offer.

Even where the respondent's mandatory offer is a genuine pre-estimate the claimant will be in a no win situation if the total is less than what a Court would or does order but the relevant part of the damage is higher in the offer than a Court award.

There is no discretion in the court to correct this anomaly except in s156 (6)[1].

If there is some basis for doing so in advance of the time for mandatory offers the Court may dispense with them under s142.2 This discretion was described as almost unfettered. If a pattern of cynical offers could be established then that may be a basis for seeking such a dispensation.

It is a shame the legislature did not share the opinion of Justice Refshauge in *Singh v Rodden* where he said:-

"81. From experience, I do not have such a jaundiced view of the lawyers engaged in personal injuries litigation that it is necessary to impose such discipline [referring to the Act] in every case, all the time. The discipline imposed by the mandatory final offer requirement can be valuable, can sharpen practice and can focus the mind. Many cases are resolved, however, by the common sense and ordinary negotiation of competent lawyers. Where the discipline of mandatory final offers has the real capacity to inflict injustice, I am satisfied that there are other mechanisms that the parties and the Court can employ to see that the excesses of such litigation, that has sometimes been seen in the past, can be curbed."

In *Haureliuk v Furler* [2012] ACTCA 11; [2011-2012] ACTLR 151 the Court of Appeal held that the regime did not apply to pre litigation offers. In doing so they said of s155 in obiter without the contrary having been argued:

"17. The appellant referred to s 155(5) and s 156(7). The effect of those subsections is that for the purpose of performing the comparison required by, for example, s 155(2) or (3), that part of the award of damages for pain and suffering is to be excluded. The appellant submits that although s 155(3) does not expressly say that the mandatory final offer excludes the amount allowed for pain and suffering that must be so, otherwise the Court would not be comparing "like with like". The appellant submits that not to exclude the amount allowed for pain and suffering from the mandatory final offer would give a distorted operation to ss 155 and 156. That seems to us to be clearly correct and we did not understand the respondent to dispute the proposition that, for the purposes of those sections, the amount offered for pain and suffering in the mandatory final offer is excluded. That conclusion means in turn that unless the appellant's construction of s 144 is adopted, the mandatory final offer provisions operate differently depending on whether the issue arises at the pre-action stage or at the post-judgment stage. At the pre-action stage, the costs restrictions operate by reference to the whole amount in the offer whereas at the post-judgment stage they operate on the basis that the amount identified for pain and suffering is excluded. The appellant submits that the sections (that is, s 144 on the one hand and ss 155 or 156 on the other) were intended to operate in a similar fashion and will do so if his construction is adopted."

Section 155[3] is poorly drafted. It excludes non-economic loss from the word damages but then uses phrases other than damages to explain what is to be done. The phrases are *"the (claimants or respondents) mandatory final offer"* and the *"amount awarded"*.

The extrinsic materials show some distaste for damages for pain and suffering which were seen as encouraging litigation and discouraging rehabilitation. The Court of Appeal's reading of the section does seem to be the only one that makes sense. If another reading that could work was available, a Court of Appeal might be persuaded to prefer it for the same reasons as were argued in Furler.

Conclusion

It is submitted that the regime is unfair and there should be discretion in the Court to make different orders in an appropriate case. Unlike Justice Refsahuge I do not see there being sufficient safeguards in the legislation to prevent unfairness. Difficulties such as this are prone to arise where the legislation is made without sufficient input from practitioners and where the Courts are not entrusted with a discretion.

Footnotes

[1] (6) If an award of damages is affected by factors that were not reasonably foreseeable by a party at the time of making the party's mandatory final offer, the court may, if satisfied that it is just to do so, make an order for costs under section 155 (2) or (3) as if the reference to a mandatory final offer in the relevant subsection were a reference to a later offer made in the light of the factors that became apparent after the parties completed the exchange of mandatory final offers.

[2] *Singh v Rodden and Insurance Australia Limited t/as NRMA Insurance* [2013] ACTSC 272.

[3] **155 Costs—small awards of damages—generally**

(1) This section applies if a court awards $50 000 or less in damages in a proceeding (other than an appellate proceeding) based on a motor accident claim.

Note Damages does not include damages for pain and suffering (see s (5)).

(2) If the court awards $30 000 or less in damages, the court must apply the following principles:

(a) if the amount awarded is less than the claimant's mandatory final offer but more than the respondent's mandatory final offer, no costs are to be awarded;

(b) if the amount awarded is equal to, or more than, the

claimant's mandatory final offer, costs must be awarded to the claimant in the way prescribed by regulation as from the date on which the proceeding began (but no award is to be made for costs up to that date);

(c) if the amount awarded is equal to, or less than, the respondent's mandatory final offer, costs must be awarded to the respondent as prescribed by regulation.

(3) If the court awards more than $30 000 but not more than $50 000 in damages, the court must apply the following principles:

(a) if the amount awarded is less than the claimant's mandatory final offer but more than the respondent's mandatory final offer, costs must be awarded to the claimant in accordance with the Civil Law (Wrongs) Act 2002, chapter 14, up to the maximum amount prescribed by regulation or, if no amount is prescribed, $2 500;

(b) if the amount awarded is equal to, or more than, the claimant's mandatory final offer, costs must be awarded to the claimant as follows:

(i) costs up to the date on which the proceeding began must be awarded in accordance with the Civil Law (Wrongs) Act 2002, chapter 14, up to the maximum amount prescribed by regulation or, if no amount is prescribed, $2 500;

(ii) costs on or after the date on which the proceeding began must be awarded on an indemnity basis;

(c) if the amount awarded is equal to, or less than, the respondent's mandatory final offer, costs must be awarded as follows:

(i) costs up to the date on which the proceeding began must be awarded to the claimant in accordance with the Civil Law (Wrongs) Act 2002, chapter 14, up to the maximum amount prescribed by regulation or, if no amount is prescribed, $2 500;

(ii) costs on or after the date on which the proceeding began must be awarded to the respondent in accordance with the Civil Law (Wrongs) Act 2002, chapter 14.

(4) This section is subject to section 156.

(5) In this section:

damages does not include damages for pain and suffering.

Bryan Meagher SC

Since the Federal Budget in May, funding tertiary education has become an important topic. The proposed changes involve two factors that will contribute to increased costs:

* Deregulation of fees; and

* Charging a real interest rate on the debt accrued to fund those fees (HELP debt).

There has been some suggestion that the increased competition from deregulation will restrict the growth in university fees. It's a brave suggestion – Australia's existing universities have strong brands and students are not required to pay the costs they are incurring upfront because of the HECS/HELP system. I can't see a time in the near future where the majority of potential law students use price as the deciding factor between the Illawarra TAFE and University of Sydney.

Charging a real interest rate on the HELP debts will also mean that rather than just maintaining their value as happens under the present system, the debt will grow in time through compound interest. This is an issue that is also more likely to affect those who take time out of the workforce to raise children, as they may not have repaid their debt in full by then and are unlikely to be making further repayments while balancing part-time work and raising children.

So what are the options if you would like to incorporate tertiary education funding into your financial plan?

1. Paying extra into a mortgage redraw or offset account

This strategy is great because of its simplicity. If you have a mortgage for your home, it is likely that the interest isn't deductible. This means the 'return' on putting extra savings against the mortgage is the interest that you have avoided.

Even at current low rates that's a 5.0% return, and it's after-tax. If you're in the 37.0% tax bracket that's the equivalent of 7.9% before tax, or 9.1% for the highest 45.0% tax bracket.

2. Education funds & scholarship plans

Are you positive that your four-year old with a talent for arranging the alphabet blocks is definitely going to pursue full-time university studies?

Scholarship plans have great marketing – but they are a highly specialised tool. Usually if your child doesn't end up undertaking what they define as eligible study, you will receive only your contributions back and forfeit earnings. Vocational education and even part-time university studies usually don't qualify as eligible study, so I don't usually recommend their use.

3. Investment / insurance bonds

An investment or insurance bond is like investing in a managed investment, where your money is pooled with other investors. The main difference though is that the fund pays tax on investment earnings, you don't put them in your tax return. The fund earnings are taxed at 30.0%, which is lower than your personal tax rate if you're earning more than $37,000 pa.

If you hold the investment bond for 10 years, you don't pay any tax on investment gains. Insurance bonds also allow you to nominate a beneficiary (like a life insurance policy) so they are great for providing estate planning certainty when there are blended families involved.

As you can see there are some really good options to select from, depending on your personal circumstances. The most important first step though is just to have a plan in place, so that when the kids are old enough you're able to help them out with education.

Consider it an education in your own future, a few dollars towards education means a self-sufficient adult child in the long run!

Give us a call on (02) 6247 1233 or email canberra@mlcadvicecentre.com.au if you'd like to start your own planning today.

Michael Miller (Authorised Representative No. 294933, Credit Representative No. 428806) is an Authorised Representative and Credit Representative of GWM Adviser Services Limited trading as MLC Advice.

MLC

Sentencing Matters

The Government's recent announcement that it will seek to abolish periodic detention as a sentencing option opens up the need for a general review of sentencing in the Territory. For one thing, combination sentences will need to be reviewed, as they typically include a periodic detention component.

Coincidentally the Legislative Assembly's Standing Committee on Justice and Community Safety is currently conducting a sentencing inquiry. No doubt the Committee will canvass various options as to what the sentencing landscape in the ACT will look like once periodic detention has been abolished.

There has been a movement in other jurisdictions to somewhat simplify sentencing options.

For example recently Victoria abolished a number of orders including intensive corrections orders and replaced them with community corrections orders which are an intermediate sentencing option between a fine and imprisonment. The purpose of the community corrections orders is to provide a community based sentence for a wide range of offending tailored to the circumstances of the offender. There are a wide range of conditions which may be imposed under a community corrections order, including conditions which are very similar to the old intensive corrections orders. In theory at least, the community corrections orders have the capacity to be more effective than simple good behaviour orders.

In conjunction with the reforms introducing community corrections orders, Victoria is progressively abolishing suspended sentences. Suspended sentences have already been abolished in the County and Supreme Courts, and

are slated for abolition in the Magistrates Court in Victoria later this year.

Given that some adjustment will be necessary with the abolition of periodic detention, the Victorian experience provides an interesting precedent for possible reform in the ACT.

Jon White

Director of Public Prosecutions

Pro bono Services in the ACT

Across the ACT it is evident that a considerable amount of pro bono legal assistance is provided to the community by lawyers. Much of this assistance is unheralded and provided very quietly by lawyers in a variety of ways – ranging from minor advice and assistance through to complex case work. Certainly the provision of this is assistance is often ad hoc, but nonetheless the extent and depth of this assistance is well attested to. It is a regrettable matter that the provision of legal aid services can only be for a limited number of people and that outside this net, there is considerable unmet need.

In this context the announcement of the ACT Bar Association Pro Bono Scheme is particularly welcomed. It sits well with the work that is already being undertaken by the ACT Law Society through the Pro Bono Committee, and the commitment of the Commission to optimises services to the community. One way of addressing this has traditionally been through pro bono assistance. In advertising the assistance the Bar can provide, the Association is attempting to bridge this gap. This is much appreciated and no doubt will be made use of by a range of legal practitioners, including the Legal Aid Commission.

On a practical level one of the key problems is making a connection between those persons who need assistance, the organisations to whom they first turn such as CLCs and legal aid commissions, and the resources able to be provided by the legal fraternity.

The Legal Aid Commission uses guidelines very similar to those applied by the Law Society's Pro Bono Scheme. It is assumed that the criteria to be applied by the Bar Association in this pro bono scheme will also fit well within this frame of reference.

The focus of the Pro Bono Clearing House sets practical criteria for identifying those matters which may benefit from consideration by the Bar Association. These criteria are:

* Public interest law matters that affect a significant number of people or that raise a matter of broad public concern; and

* Private interest law matters that have reasonable prospect of success.

What may amount to "a broad public concern" will of course vary depending on the circumstance of each case. In the interest of fairness, it of course is appropriate to try and drill down into the exercise of discretion that will be used to select cases. In this context the Legal Aid Commission applies a three element test:

* The chances of the proposed legal proceedings being more likely than not to succeed;

* The ordinarily proven self-funding litigant would risk his or her own funds in undertaking the proceedings proposed; and

* The cost involved in providing legal assistance are warranted by the likely benefit to the applicant, or to the community.

The types of cases that are considered for pro bono should satisfy not only a means test but also a merits test based on the kind of criteria enumerated above. It will work well to ensure that although assistance will no doubt remain ad hoc, there is a public transparent and accountable criteria used to identify those kinds of matters which would benefit from this assistance. Certainly in terms of the matters that might be referred by the Legal Aid Commission to the Law Society or Bar Association, this would be the criteria which will be applied.

Accordingly the Commission will maintain contact with the CEO of the ACT Bar Association to ensure that there is an appropriate mechanism for referral and consideration of potential pro bono matters.

While pro bono is, and will continue to be, a most worthwhile endeavour for all lawyers, it should not be seen as a panacea for unmet need. Some of these matters were recently considered and put to the Productivity Commission Inquiry into Access to Justice. It is interesting to note in their draft report that they place considerable expectations upon the legal profession to deliver pro bono assistance. In the past the Commonwealth Government has also placed some obligations upon legal firms when they are tendering for work to show that they are meeting some of the broader community needs through pro bono assistance, and it is interesting to see that the Productivity Commission is also seeking views about whether that kind of approach, and indeed adopting pro bono targets with conditions tied to government tenders, should be continued.

The Productivity Commission also point out that in the bigger jurisdictions such as Queensland and New South Wales, a pro bono coordinator who would sit within a government department, take a lead role in ensuring that pro bono work is well coordinated. This is modelled on the Victorian approach.

No doubt there will be a range of views expressed in relation to the utility and expense of that approach and whether formalising these types of arrangements will have long term benefits. Clearly the setting of targets would imply the establishment of a regime of oversight and regulation, and indeed evaluation that is not currently undertaken within the ACT.

Whatever the outcome I am sure policy makers will take into account that the work undertaken through pro bono schemes is a reflection of the generosity and support of the legal profession that could well be emulated by many other professions.

Dr John Boersig

Chief Executive, Legal Aid (ACT)

Advocacy in Asia
"Meeting the Challenges"

27-28 September 2014
Kuala Lumpur, Malaysia
A Conference organised by the
International Advocacy Training Council (IATC)

What is the IATC?

The IATC is an organisation registered in Hong Kong. The aims of the organisation are to:

(a) promote the rule of law;
(b) promote high standards of advocacy internationally;
(c) promote best-practice in advocacy training internationally;
(d) promote the independence and integrity of advocates internationally; and
(e) promote good administration of justice;

by promoting and supporting professional advocacy training by practicing advocates and judges on a pro bono basis throughout the common law world and beyond; and supporting and co-ordinating the provision of international advocacy training by affiliated bar associations or councils around the world. The IATC provides teacher training on a non-profit making basis to bar associations or councils around the world, to assist in the establishing of an independent local advocacy training programme to the highest international standards. It can also provide assistance in designing and initial administrative support for advocacy training programmes; and provide international teachers to teach on such courses.

Advocacy training is undertaken by many organisations and Bar Associations throughout the world. The development of advocacy training is crucial to ensure the highest standards of advocacy and to promote the rule of law. The IATC is an international organisation set up for this purpose and to promote best-practices in advocacy training internationally.

"Advocacy in Asia" is an international conference organized by the IATC to showcase advocacy training as a means of promoting the development of the rule of law and the highest standards of advocacy throughout the region.

Through a combination of lectures and discussion groups, the Conference aims to cover areas such as advocacy training methods and teacher training as well as other core aspects of advocacy training, including expert evidence, appellate advocacy and inter-organisation co-operation in support of international advocacy training. The Conference will feature sessions delivered by senior Judges and Barristers from the major advocacy training jurisdictions.

This is a unique opportunity to meet, promote and share ideas with other advocacy trainers across the globe. We hope to develop a strong and vibrant international community of advocacy trainers who all share the same strong commitment towards the teaching of advocacy and the promotion of the rule of law.

The Conference promises to bring together advocacy trainers (barristers, advocates and judges) from all the major common law jurisdictions including England and Wales, Australia, South Africa, Hong Kong, Singapore, New Zealand, Zimbabwe and the host nation Malaysia. As part of its efforts to assist in the promotion and development of advocacy training and the rule of law within each jurisdiction, the IATC welcomes delegates from all other Asian nations.

The IATC invites you to join us in Kuala Lumpur, Malaysia on 27-28 September 2014 for this the first Advocacy Conference organized by the IATC. Your participation in this Conference would be greatly welcomed. It promises to be an absorbing and enriching experience!!

The conference is organized in conjunction with the International Malaysia Law Conference (IMLC) on 24 – 26 September 2014 and represents a wonderful opportunity to attend and participate in both events.